

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Revision of the Commission's Rules)	CC Docket No. 94-102
To Ensure Compatibility with)	
Enhanced 911 Emergency Calling Systems)	
)	
Non-Initialized Phones)	

COMMENTS OF SPRINT CORPORATION

Sprint Corporation, on behalf of its wireless division, Sprint Spectrum L.P., d/b/a Sprint PCS ("Sprint"), submits these comments in response to the Reconsideration Petition and Request for Stay that the Alliance for Telecommunications Industry Solutions ("ATIS") has filed in response to the *Non-Initialized Phone Order*.¹

I. ANY NEW SOLUTION SHOULD BE COMMENSURATE TO THE LIMITED PROBLEM BEFORE THE COMMISSION

The Commission determined in its *Non-Initialized Phone Order* that there was no basis to impose on carriers a network solution to the so-called "call back" problem.² No party has sought reconsideration of these conclusions by the Commission. The Commission further determined that given the available alternatives, the best approach in addressing the call back issue would be to require non-initialized handsets donated in carrier-sponsors programs and newly-

¹ See *Public Notice*, Wireless Telecommunications Bureau Seeks Comment on Petition for Reconsideration Regarding the Commission's Rules on Non-Initialized Phones and on Filing of Request for Stay, CC Docket No. 94-102, DA 02-1775 (July 3, 2002); *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, *Report and Order*, FCC 02-120 (April 29, 2002) ("*Non-Initialized Phone Order*").

² *Non-Initialized Phone Order* at ¶ 11 ("Based on the record, we cannot require carriers to develop and implement a call-back solution at this stage.").

manufactured 911-only phones be programmed with a uniform code “to alert a PSAP that the 911 call is being made from a wireless phone that lacks call-back capability.”³ Again, no one has asked the Commission to reconsider this holding.

Finally, based upon the limited record before it, the Commission required that these non-initialized handsets be programmed with the digits, 123-456-7890, as its telephone number/mobile identification number (“MIN”).⁴ The Commission chose this digit series because one public safety agency and a manufacturer of 911-only handsets had specifically recommended it.⁵

ATIS points out in its reconsideration petition that the digit series selected by the Commission also serves as a valid international roaming MIN (“IRM”) range, and that use of the 123-456-7890 digit series could remove a considerable number of telephone numbers in the IRM assignment pool.⁶ Because the purpose of a non-dialable call back number can be achieved with digits other than the particular series that the Commission selected, the Commission can, and should, choose a different series of digits for its E911 rules. Sprint recommends that the Commission charge the Emergency Services Interconnection Forum (“ESIF”) with the task of recommending an alternative digit series to be programmed into the applicable handsets.

The Commission further decided in its *Non-Initialized Phone Order* that use of the same digit series for use throughout the country would serve the public interest:

This uniform rule will allow the PSAPs to receive identical and uniform information when being called from a non-initialized phone, thereby making it clear that location information is required immediately. This requirement will also make it easier for PSAPs to train their operators to recognize calls from non-initialized phones, and to communicate immediately with the caller the importance of stay-

³ *Non-Initialized Phone Order* at ¶ 2.

⁴ See 47 C.F.R. § 20.18(f)(1)(I).

⁵ See *Non-Initialized Phone Order* at ¶¶ 33-34.

⁶ ATIS Reconsideration Petition at 5-6.

ing on the line and to direct the caller to re-dial 911 in the event of a premature disconnection.⁷

Some have now suggested that the better approach would be to program each non-initialized handset with a different non-dialable call back number (*e.g.*, 911 followed by the last seven digits of the handset's electronic serial number), so that each 911 caller can be identified more readily.

Sprint takes no position on the question of which approach – one uniform number or different numbers for each handset – should be utilized. However, Sprint does recommend that the Commission refer this question to the ESIF so the ESIF can submit specific recommendations to the Commission following a thorough investigation and debate. The open forum/consensus procedures utilized by the ESIF offer a far better vehicle to discuss implementation details than the rigid legal pleading approach that the Commission ordinarily employs.

In summary, the new problem regarding non-initialized handsets is limited in scope, and the remedy to this problem should be limited to the scope of the problem: change the digit series that should be programmed into the handsets by the parties distributing non-initialized handsets to donation programs or selling new or refurbished 911-only phones.

II. THERE IS NO FACTUAL BASIS TO IMPOSE A NEW NETWORK SOLUTION ON CARRIERS

Some have suggested that the Commission change the way that non-initialized handsets are identified, by transferring the burden from persons who distribute non-initialized handsets to carriers – including carriers that do not distribute handsets subject to the Commission's *Order*. For the same reasons it determined that it “cannot require carriers to develop and implement a

⁷ *Non-Initialized Phone Order* at ¶ 32.

call-back solution,”⁸ the Commission cannot impose a non-initialized handset identification feature upon carriers – that is, impose a network solution rather than a handset solution.

The Commission has held that carrier network solutions should not even be considered unless there is evidence regarding the size of the problem:

[W]e conclude that the scope of the non-initialized phones issue should first be determined before requiring a solution to solve it.⁹

The Commission has recognized that “[n]o concrete data was submitted in the comments and reply comments in this proceeding”:

No data, however, have been provided in this proceeding, either in parties’ comments or in *ex parte* communications, to show the volume of 911 traffic which is generated by non-initialized phones, nor the percentage of non-initialized calls that requires a call-back to effectuate an adequate emergency response. We therefore have no evidence of the scope of this potential problem.¹⁰

This critical data, which public agencies could assemble if they chose to do so,¹¹ still has not been submitted in the record. This alone is grounds to reject consideration of a carrier network solution to the non-initialized handset identification issue.

If the size of the problem is documented and an additional solution is warranted, the Commission then examines the technical feasibility of a network solution and if a solution does not exist, determines whether a network solution can be developed and implemented in “a cost-efficient manner.”¹² The reconsideration petition makes reference to Annex C, entitled “Non-

⁸ *Non-Initialized Phone Order* at ¶ 11.

⁹ *Non-Initialized Phone Order* at ¶ 12.

¹⁰ *Id.* at ¶¶ 9 and 12.

¹¹ *See id.* at n.22.

¹² *See id.* at ¶¶ 10 and 11.

dialable Callback Numbers.”¹³ Annex C is an informative annex to the *Phase II* standard, J-STD-036, and is not part of the *Phase I* standard. As such, Sprint’s two major equipment vendors, Lucent and Nortel, had not incorporated the Annex C feature into their Phase I switch generic software, which Sprint has already installed throughout its network. While it appears that the Lucent Phase II software includes this functionality, Sprint has been unable to verify whether the Nortel Phase II software includes the Annex C functionality.¹⁴

As noted above, since Annex C is an annex to a Phase II standard, the Annex C feature is not available in most Phase I arrangements. Annex C is not available at all with Phase I service in Nortel markets. It is available in Lucent markets but only if the PSAP utilizes an NCAS Phase I solution. The Annex C feature is not available in Lucent markets if the PSAP instead uses the CAS or Hybrid solutions to Phase I. Preliminary discussions with the vendors indicate that there could be a sizable fee to develop in the immediate future (*e.g.*, a special software patch) an Annex C feature to all Phase I arrangements. This new expense cannot be justified, given that a viable alternative already exists (programming individual non-initialized handsets), and especially given that Phase I is being replaced with Phase II E911 service. More fundamentally, however, since there is no record evidence at all concerning the scope of any call back problem, there is no demonstrated need to further investigate a potentially expensive network solution.

In summary, it appears that an Annex C feature is (or will be) included in vendor Phase II switch software. There is no basis for the Commission to impose a new requirement that this Annex C feature be developed for Phase I E911 service, especially since there are readily avail-

¹³ It bears noting that Annex C is not part of the J-STD-036 standard. Indeed, Annex C provides that “[t]his annex is informative and is not considered part of this Interim Standard.”

¹⁴ Sprint PCS and Nortel are having an ongoing dialogue over whether Nortel’s Phase II switch generic software includes the Annex C feature.

able alternatives that the Commission has already adopted: reprogram certain non-initialized handsets.

III. THE COMMISSION SHOULD REEVALUATE WHETHER THE PUBLIC INTEREST IS SERVED BY FORWARDING 911 CALLS FROM NON-INITIALIZED HANDSETS

It bears remembering that the reason the Commission and industry are continually confronting the subject of non-initialized handsets is because the Commission disregarded the joint recommendation of the public safety community and the industry in imposing E911 obligations on such handsets.¹⁵

The scope of the “call back problem” has not been established but is likely to be tiny. The only available evidence is that one-fourth of one percent (0.25%) of 911 calls sampled originated on non-initialized handsets.¹⁶ The need for a PSAP to call back one of these 911 callers occurs in a small fraction of all cases – so the “call back problem”– involves a small number of these E911 calls. Yet, this is now the fifth round of pleadings that industry has submitted in the past eight years on an issue of such limited scope.¹⁷ There would be many public interest and public safety benefits by removing 911 obligations as applied to non-initialized handsets. With the widespread availability of affordable wireless service, the need for the requirement may have run its course. Removing this requirement would eliminate completely any call back problem, as

¹⁵ See Sprint Comments, CC Docket No. 94-102, at 1-5 (July 9, 2001).

¹⁶ See *Non-Initialized Phone Order* at n.21.

¹⁷ Comments and reply comments were filed in response to the FCC’s original call back proposal. Another round of pleadings were submitted because of the need for FCC to reconsider its original order, since the FCC adopted a course different than what had been proposed. Industry and the public safety community thereafter invested considerable time and resources addressing the call back issue in the Wireless E911 Implementation Ad Hoc Group. The FCC requested an additional round of pleadings in 2000 and then another round of pleadings in 2001.

the Commission has recognized.¹⁸ Sprint will defer to the views of the public safety community on this issue. But the experience gained to date suggests that a reevaluation of the Commission's policies concerning non-initialized handsets is warranted.¹⁹

IV. CONCLUSION

For the foregoing reasons, Sprint respectfully requests that the Commission refrain from imposing a broad network solution such as mandating the adoption of Annex C and further that the Commission adopt policies and rule changes consistent with the recommendations set forth above.

Respectfully submitted,

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¹⁸ See *Non-Initialized Phone Order* at ¶ 24 (“[A]bolishing the current requirement that carriers transmit all 911 calls to PSAPs without respect to their call validation process would allow PSAPs with E911 Phase I capability to return all 911 calls, since all calls would necessarily come from service-initialized handsets.”).

¹⁹ Indeed, the Communications Act requires a re-evaluation of the non-initialized handset rule. See 47 U.S.C. § 161.